



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2006 REGULAR SESSION

HOUSE BILL NO. 450

WEDNESDAY, FEBRUARY 22, 2006

The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Haller

AN ACT relating to forestry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 149.344 is amended to read as follows:

- 2 (1) Two (2) years from July 15, 1998, any logger or operator engaged in the conduct of
3 any timber harvesting operations shall use appropriate best management practices.
- 4 (2) No logger or operator shall conduct any timber harvesting operations in a manner
5 that is causing or will likely cause water pollution.
- 6 (3) If the cabinet determines that a logger or operator engaged in timber harvesting
7 operations has failed to use the appropriate best management practices or is causing
8 water pollution, the cabinet shall give the logger or operator a written warning of
9 the facts alleged to constitute the failure to use the best management practice or the
10 water pollution, and a reasonable period for abatement and compliance.
- 11 (4) If, after the time for abatement in the written warning, the cabinet determines that
12 the logger or operator has failed to implement the appropriate best management
13 practices or has failed to abate the water pollution, the logger or operator will be
14 provided an opportunity for an informal conference with the district forester. After
15 the opportunity for an informal conference, if the cabinet determines that the logger
16 or operator has failed to implement the appropriate best management practices or
17 has failed to abate the water pollution, the cabinet shall issue a notice of violation
18 stating the best management practice that the logger or operator has failed to
19 implement or the facts alleged to constitute the water pollution, and order the logger
20 or operator to implement corrective measures within a specified period of time.
- 21 (5) If, after the issuance of a notice of violation, the logger or operator fails to
22 implement the best management practice or corrective measures, the cabinet shall
23 issue a special order mandating the logger or operator to immediately implement the
24 best management practice or the corrective measures. The cabinet may also order
25 the logger or operator to cease all or a portion of the timber harvesting operation

1 constituting the violation, and if the cabinet does so, the logger or operator shall
 2 cease all or a portion of the timber harvesting operation, until an inspection
 3 determines that the violation has been abated. At the time the special order is
 4 issued, the cabinet shall notify the logger or operator of the opportunity for an
 5 administrative hearing under KRS 149.346(2), to be held within five (5) working
 6 days of the receipt of a written request made by the logger or operator.

7 (6) If the cabinet finds that any logger or operator is conducting any timber harvesting
 8 operations in violation of KRS 149.342(1) or in a manner that is causing or is likely
 9 to cause water pollution that is presenting or will likely present an imminent and
 10 substantial danger to the public health, safety, or welfare, or to the health of
 11 animals, fish, or aquatic life, or to a public water supply, or to recreational,
 12 commercial, agricultural, or industrial uses, the cabinet may issue an emergency
 13 order directing the logger or operator to immediately cease the activity and
 14 implement corrective measures within a reasonable time, and the logger or operator
 15 shall immediately cease the activity and implement corrective measures. At the time
 16 the order is issued, the cabinet shall also notify the logger or operator of the
 17 opportunity for an administrative hearing under KRS 149.346(2) to be held within
 18 five (5) working days of the receipt of a written request. The commencement of
 19 proceedings by the cabinet under subsection (3), (4), ~~(5)~~, or (10) of this section
 20 shall not preclude the cabinet from issuing an emergency order under this
 21 subsection.

22 (7) Notification under this section shall be by certified mail, return receipt requested,
 23 sent to the last known address of the logger or operator, or by hand delivery by the
 24 cabinet.

25 (8) If the logger or operator fails or refuses to cease activity or comply with and
 26 implement the best management practices or corrective measures in a special order
 27 issued under subsection (5) of this section or fails to cease activity and implement

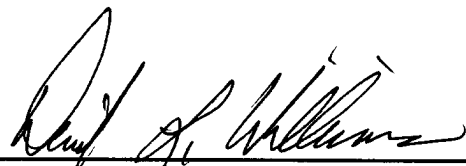
1 corrective measures in an emergency order under subsection (6) of this section,
 2 unless extended by the cabinet, the logger or operator shall be deemed a bad actor
 3 and shall be subject to civil penalties under KRS 149.348 after an opportunity for a
 4 hearing under KRS 149.346. The cabinet shall have the authority to remove or
 5 terminate bad actor designations from loggers or operators that demonstrate
 6 adherence to implementing best management practices, have paid all fines and
 7 penalties imposed by the cabinet, and have completed corrective action on sites with
 8 violations.

9 (9) The cabinet may promulgate administrative regulations to establish rules and
 10 procedures to remove or terminate the bad actor designation from a logger or
 11 operator that was previously designated a bad actor under subsection (8) of this
 12 section.

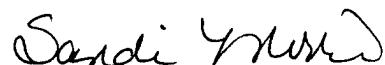
13 (10) If the cabinet determines that a logger or operator engaged in timber harvesting
 14 operations has failed to use the appropriate best management practices in
 15 violation of this section, and the logger or operator has been issued two (2) or
 16 more bad actors designations under KRS 149.346, the cabinet shall immediately
 17 issue a warning and, if the violations are not corrected after a period defined by
 18 the warning but no longer than one (1) week, shall issue an order directing the
 19 logger or operator to immediately cease the activity and implement corrective
 20 measures within a reasonable time, and the logger or operator shall immediately
 21 cease the activity and implement corrective measures. At the time the order is
 22 issued, the cabinet shall also notify the logger or operator of the opportunity for
 23 an administrative hearing under KRS 149.346(2) to be held within five (5)
 24 working days of the receipt of a written request.



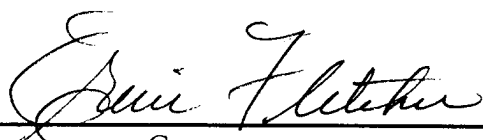
Speaker-House of Representatives



President of the Senate

Attest: 

Asst. Chief Clerk of House of Representatives

Approved 

Governor

Date 